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COMMISSION RESTARTS CLOCK IN COMCAST-TIME WARNER CABLE AND AT&T-DIRECTV MERGER PROCEEDINGS AND ESTABLISHES DATES FOR RESPECTIVE PLEADING CYCLES

MB Docket Nos. 14-57 and 14-90

On October 3 and 22, 2014 respectively, the Commission stopped the informal 180-day clock and suspended the pleading cycle in the Comcast-Time Warner Cable and AT&T-DIRECTV merger proceedings. Initially, the clock in Comcast-Time Warner Cable was stopped so that the applicants could complete their responses to the Information Requests issued on August 21, 2014, and for commenters to have adequate time to review new material submitted by the Applicants in the September 23, 2014 Opposition to the Petitions to Deny and Comments. Thereafter, the clocks were stopped and the pleading cycles were suspended as a result of objections to the availability of Video Programming Confidential Information ("VPCI"), which prevented commenters from reviewing any Highly Confidential Information submitted in the proceedings, significantly hampering commenters" "ability to meaningfully comment and participate in these proceedings, in both Docket 14-57 and Docket 14-90."

¹ Public Notice, Commission Announces Extension of Time to File Replies to Response and Oppositions for its Review of Applications of Comcast Corporation, Time Warner Cable Inc., Charter Communications, Inc., and Spinco to Assign and Transfer Control of FCC Licenses and Other Authorizations, DA 14-1446, (MB, rel. Oct. 3, 2014); Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations and AT&T, Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations, Order, DA 14-1523 (MB, rel. Oct. 22, 2014) ("Suspension Order").

² VPCI is defined as "information that is Highly Confidential Information, and is an agreement, or any part thereof, for distribution of any video programming (including broadcast programming) carried by an Applicant's (i) MVPD service and/or (ii) OVD service; a detailed description of one or more provisions of such an agreement, including, but not limited to, price terms; and information relating to the negotiation of such an agreement." *See Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations*, Second Amended Modified Joint Protective Order, ¶ 2, MB Docket No. 14-57, DA 14-1639 (MB, rel. Nov. 12, 2014) ("Comcast-TWC Second Amended Modified Joint Protective Order"); *Applications of AT&T, Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, Joint Protective Order, ¶ 2, MB Docket No. 14-90, DA 14-1640 (MB, rel. Nov. 12, 2014) ("AT&T-DIRECTV Second Amended Modified Joint Protective Order") (together, the "Second Amended Modified Joint Protective Orders").

³ Suspension Order at 3.

Specifically, in a series of filings, a number of third parties (the "Content Companies") ⁴ petitioned the Commission to prohibit any Reviewing Party⁵ from having access to any VPCI. ⁶ The Commission denied the Content Companies' requests, finding that the protective orders in these proceedings "properly balance, on the one hand, the need for Commission staff and other interested parties to access [VPCI] . . ., and, on the other hand, the legitimate interests of programmers and broadcasters in preventing the dissemination and misuse of their VPCI." The Content Companies appealed to the United States Court of Appeals for the District of Columbia Circuit and, on November 21, 2014, the court granted their motion for stay, prohibiting access to materials that are the subject of the litigation during the pendency of the appeal. ⁸ The court noted that the Commission "has access to the relevant documents at issue in this matter and can continue to evaluate the proposed merger during the stay."

On November 4, 2014, the Media Bureau stated that the informal transaction review clocks would restart and revised pleading cycles would be announced when access to Highly Confidential Information again became available pursuant to the protective orders in these proceedings. On November 25, 2014, with the consent of the Content Companies, the Commission asked the D.C. Circuit to enter an expedited briefing schedule. In its motion, the Commission noted that -- because the Content Companies' request for stay applied only to VPCI -- the Commission planned to allow the release of Highly Confidential

⁴ The Content Companies include: CBS Corp., Scripps Networks Interactive, Inc., The Walt Disney Company, Time Warner Inc., Twenty First Century Fox, Inc., Univision Communications Inc., Viacom Inc., Discovery Communications LLC, and TV One, LLC.

⁵ "Reviewing Party" is defined in the Second Amended Modified Joint Protective Orders at ¶ 2.

⁶ See Letter from Mace Rosenstein, Covington & Burling LLP, to Marlene H. Dortch, Secretary, FCC, MB Docket Nos. 14-57, 14-90 (Sept. 23, 2014); Letter from Rebecca S. Bryan, Vice President/General Counsel, Raycom Media, to William T. Lake, Chief, Media Bureau, FCC, MB Docket Nos. 14-57, 14-90 (Sept. 17, 2014); Letter from Joshua N. Pila, LIN Television Corp., et al., to William T. Lake, Chief, Media Bureau, FCC, MB Docket No. 14-57 (Sept. 11, 2014); CBS Corp. et al. Emergency Request for Stay of Media Bureau Order and Associated Modified Proetctive Orders, MB Docket Nos. 14-57, 14-90 (Oct. 14, 2014); CBS Corp. et al. Application for Review, MB Docket Nos. 14-57, 14-90 (Oct. 14, 2014); Emergency Request for Stay, field by the Content Companies (filed Nov. 7, 2014); Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations and Applications of AT&T, Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations, Order, n. 6, 7, DA 14-1605 (MB, rel. Nov. 4, 2014).

⁷ Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations and Applications of AT&T, Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations, Order on Reconsideration, ¶ 1, DA 14-1601 (Media Bur., rel. Nov. 4, 2014) ("Order on Reconsideration"); ⁷ Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations and Applications of AT&T, Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations, Order on Review, FCC 14-202 (Nov. 10, 2014) (Commissioners Pai and O'Rielly dissenting and issuing separate statements). See also Applications of Comcast Corp. and Time Warner Cable Inc. for Consent to Assign or Transfer Control of Licenses and Authorizations, MB Docket No. 14-57; Applications of AT&T, Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations, MB Docket No. 14-90, Order, DA 14-1463 (MB, rel. Oct. 7, 2014).

⁸ Order, CBS Corp. v. FCC, No. 14-1242 (D.C. Cir. Nov. 21, 2014).

⁹ See id. .

¹⁰ Order on Reconsideration at ¶ 36.

Information other than VPCI in accord with the terms of the Second Amended Modified Protective Orders. The motion to expedite the briefing schedule was granted on December 1, 2014. We are now releasing this Public Notice that commenters may review Highly Confidential Information that is not also VPCI pursuant to the provisions of the Second Amended Joint Protective Orders beginning immediately. No Reviewing Party shall have access to VPCI pending the court's decision in the litigation.

Because Reviewing Parties can access Highly Confidential Information that is not VPCI, the pleading cycles are restarted to allow interested parties to provide comments that do not rely on VPCI. In the Comcast-Time Warner Cable proceeding, Replies to Responses/Oppositions, which were originally scheduled to be due on October 8, 2014, must be filed on or before December 23, 2014. In the AT&T-DIRECTV proceeding, Replies to Responses/Oppositions, which were originally scheduled to be due on November 5, 2014, must be filed on or before January 7, 2015.

We are also restarting the informal 180 day clock in both proceedings as of today, December 3, 2014. Furthermore, the clock for the AT&T-DIRECTV merger proceeding is reset to Day 70, to reflect the six days between the filing of AT&T and DIRECTV's Joint Opposition on October 16, 2014, and when the clock was actually stopped on October 22, 2014. The clock for the Comcast-Time Warner Cable proceeding is restarted at Day 85.

When the court determines whether VPCI may be made available pursuant to the Second Amended Modified Joint Protective Orders, we will consider what further adjustment to the pleading requirements or transaction review clocks may be appropriate in light of the Court's ruling to provide adequate time for Reviewing Parties to review and comment on the VPCI and for the Commission to consider such comments in its analysis.

Further Information. For further information, contact Marcia Glauberman, Media Bureau, (202) 418-7046, or Matthew Warner, Wireline Competition Bureau, (202) 418-2419, or Joel Rabinovitz, Transaction Team, Office of General Counsel, (202) 418-0689. Press inquiries should be directed to Janice Wise, Media Bureau, (202) 418-8165. TTY: (202) 418-2555 or (888) 835-5322.

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¹¹ Motion for Expedited Briefing Schedule, filed Nov. 26, 2014, CBS et al. v. FCC, USCA Case No. 14-1242 (D.C. Cir) 3 n. 1.

¹² CBS Corp. et al. v. Federal Communications Commission, Docket No. 14-1242 (Dec. 1, 2014).